

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

ANDREW JAY MCGRATH,)

Defendant.)

Cause No. 1:09-CR-

1: 09-cr-0169WTL -KPF

INDICTMENT

INTRODUCTION

The Grand Jury charges that:

At all times relevant to each Count of this Indictment:

1. The term "minor" was defined as set forth in Title 18, United States Code, Section 2256(1), as any person under the age of eighteen years.
2. The term "sexually explicit conduct" was defined as set forth in Title 18, United States Code, Section 2256(2), as including actual or simulated: sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal; masturbation; lascivious exhibition of the genitals or pubic area of any person; and sadistic or masochistic abuse.
3. The term "visual depiction" was defined as set forth in Title 18, United States Code, Section 2256(5), as including data stored on a computer disk or by electronic means which is capable of conversion into a visual image.
4. As used in this Indictment, the names "Jane Doe 1," "Jane Doe 2," "Jane Doe 3"

and "Jane Doe 4" are the pseudonyms of four minor females whose identities are known, each of whom was less than twelve (12) years of age when the below criminal acts were committed.

The Grand Jury charges that:

Counts 1 - 24

(Sexual Exploitation of Children/Production of Sexually Explicit Images of a Minor)

5. On or about the dates listed below in each separate Count, within the Southern District of Indiana, the defendant, ANDREW JAY MCGRATH, did employ, use, persuade, entice and coerce a minor to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct, and did produce the visual depiction(s) using materials that have been mailed, shipped, and transported in interstate or foreign commerce by any means, to wit:

| Count | Date of Offense | Minor | Digital File Name(s) |
|-------|-----------------------------|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | On or about June 6, 2008 | Jane Doe 1 | DSC_0687.jpg DSC_0688.jpg DSC_0689.jpg DSC_0690.jpg DSC_0691.jpg DSC_0696.jpg DSC_0698.jpg DSC_0699.jpg DSC_0706.jpg DSC_0707.jpg |
| 2 | On or about May 1, 2009 | Jane Doe 1 | DSC_0512.jpg DSC_0513.jpg DSC_0514.jpg |

| | | | |
|---|---------------------------------------------------|------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3 | On or about May 23, 2009 | Jane Doe 1 | DSC_0535.jpg DSC_0536.jpg DSC_0537.jpg DSC_0538.jpg DSC_0539.jpg DSC_0551.jpg DSC_0552.jpg |
| 4 | On or about August 23, 2009 | Jane Doe 1 | DSC_0556.jpg DSC_0557.jpg DSC_0558.jpg DSC_0559.jpg DSC_0560.jpg DSC_0561.jpg DSC_0562.jpg DSC_0563.jpg DSC_0564.jpg |
| 5 | On or about June 1, 2007 to August 31, 2008 | Jane Doe 2 | 101_5005.MOV |
| 6 | In or about 2007 | Jane Doe 2 | 102_5196.MOV |
| 7 | On or about October 6, 2007 | Jane Doe 2 | DSC_0213.jpg DSC_0214.jpg DSC_0215.jpg DSC_0217.jpg |
| 8 | On or about May 24, 2008 | Jane Doe 2 | 100_5084.MOV 100_5087.MOV DSC_0584.jpg DSC_0585.jpg DSC_0586.jpg DSC_0587.jpg DSC_0592.jpg DSC_0593.jpg DSC_0594.jpg DSC_0596.jpg |

| | | | |
|----|--------------------------------------------------|------------|----------------------------------------------------------------------------------------------|
| 9 | On or about February 21, 2009 | Jane Doe 2 | DSC_0314.jpg DSC_0315.jpg DSC_0316.jpg DSC_0317.jpg DSC_0333.jpg DSC_0334.jpg |
| 10 | On or about July 3, 2009 | Jane Doe 2 | DSC_1195.jpg DSC_1196.jpg DSC_1197.jpg DSC_1198.jpg |
| 11 | In or about July 2005 to January 2006 | Jane Doe 3 | 100_3589.MOV 100_3590.MOV |
| 12 | In or about July 2005 to April 2006 | Jane Doe 3 | 101_5022.MOV |
| 13 | On or about August 28, 2005 | Jane Doe 3 | 101_1038.jpg 101_1041.jpg |
| 14 | On or about September 24, 2005 | Jane Doe 3 | 000_0078.jpg 000_0093.jpg 000_0095.jpg 000_0099.jpg 000_0101.jpg |
| 15 | On or about October 21, 2005 | Jane Doe 3 | 100_1409.jpg |
| 16 | In or about 2006 | Jane Doe 3 | 100_2972.jpg 100_2992.jpg |
| 17 | In or about December 2006 to December 2008 | Jane Doe 3 | 103_5025.MOV |
| 18 | In or about September 2007 to August 2008 | Jane Doe 3 | 100_5091.MOV 100_5092.MOV |
| 19 | On or about October 6, 2007 | Jane Doe 3 | DSC_0235.jpg DSC_0236.jpg DSC_0237.jpg DSC_0238.jpg |

| | | | |
|----|----------------------------------------------|------------|----------------------------------------------------------------------------------------------------------------------------------------------|
| 20 | In or about May 2008 to September 2008 | Jane Doe 3 | 102_5147.MOV |
| 21 | On or about August 5, 2008 | Jane Doe 3 | DSC_0390.jpg DSC_0391.jpg DSC_0393.jpg DSC_0394.jpg DSC_0395.jpg DSC_0397.jpg DSC_0399.jpg |
| 22 | On or about November 22, 2008 | Jane Doe 3 | DSC_0924.jpg DSC_0927.jpg DSC_0928.jpg DSC_0929.jpg DSC_0936.jpg DSC_0937.jpg DSC_0942.jpg DSC_0943.jpg DSC_0974.jpg |
| 23 | On or about July 3, 2009 | Jane Doe 3 | DSC_1188.jpg DSC_1189.jpg DSC_1190.jpg DSC_1191.jpg |
| 24 | In or about 2007 | Jane Doe 4 | 101_5140.MOV |

Each Count of which is a separate violation of Title 18, United States Code, Sections 2251(a) and 2251(e).

The Grand Jury further charges that:

Count 25

(Obtaining of Custody or Control of a Minor to Produce Sexually Explicit Images)

6. On or about August 20, 2009, to August 23, 2009, within the Southern District of Indiana, the defendant, ANDREW JAY MCGRATH, did offer to obtain and did obtain custody or control of a minor, to wit: Jane Doe 1, with knowledge that, as a consequence of the obtaining of custody or control, the minor will be portrayed in a visual depiction engaging in sexually explicit conduct, and such offer was communicated using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, in violation of Title 18, United States Code, Sections 2251A(b) and (c).

The Grand Jury further charges that:

Count 26
(Possession of Child Pornography)

7. On or about September 14, 2009, within the Southern District of Indiana, the defendant, ANDREW JAY MCGRATH, did knowingly possess one or more books, magazines, periodicals, films, video tapes, and other matter which contained any visual depiction that had been mailed, shipped, and transported using any means or facility of interstate and foreign commerce and in or affecting interstate and foreign commerce, and which was produced using materials which had been so mailed, shipped, and transported, by any means including by computer, where the producing of such visual depiction involved the use of a minor engaging in sexually explicit conduct and such visual depiction was of such conduct, that is: ANDREW JAY MCGRATH knowingly possessed computers, computer storage media and digital storage media that contained one or more visual depictions of minors under the age of 18 years engaging in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256(2), including the following computer files:

- i. Each and all of the image and video files named in Counts 1-24 listed above;
- ii. holly-7.jpg;
- iii. janet_pics_2yo[2374].rar--janet_pics_2yo--janet-007F.jpg;
- iv. janet_pics_2yo[2374].rar--janet_pics_2yo--janet.jpg;
- v. janet_pics_2yo[2374].rar--janet_pics_2yo--janet-22F.jpg;
- vi. toddler's_pussy[2306].rar--toddler pussy--img20050910170458.jpg;

- vii. toddler's_pussy[2306].rar--toddler pussy--img20050910175400.jpg;
- viii. toddler's_pussy[2306].rar--toddler pussy--img20050910170224.jpg;
- ix. toddler's_pussy[2306].rar--toddler pussy--img20050910172202.jpg;
- x. toddler's_pussy[2306].rar--toddler pussy--img20050910173718.jpg;

All of which is a violation of Title 18, United States Code, Sections 2252(a)(4) and (b)(2).

FORFEITURE
18 U.S.C. § 2253

8. The allegations in Counts 1 through 26 of this Indictment are re-alleged as if fully set forth here, for the purpose of giving the defendant notice that the United States intends to pursue forfeiture of property pursuant to Title 18, United States Code, Section 2253 as part of any sentence imposed herein.

9. If convicted of one or more of the offenses set forth in Counts 1 through 26, the defendant, ANDREW JAY MCGRATH, shall forfeit to the United States the defendant's interest in: 1) any visual depictions described in Title 18, United States Code, Sections 2251, 2251A, or 2252, 2252A, 2252B, or 2260, and any book, magazine, periodical, film, videotape, or other matter which contains any such visual depictions, which were produced, transported, mailed, shipped, or received in violation of Title 18, United States Code, Chapter 110; 2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from

offense(s) of which the defendant is convicted; and 3) any property, real or personal, used or intended to be used to commit or to promote the commission of any offense of which the defendant is convicted, or any property traceable to such property.

A TRUE BILL

FOREPERSON

TIMOTHY M. MORRISON
United States Attorney

by:


A. Brant Cook
Assistant United States Attorney